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7 **UNITED STATES DISTRICT COURT**
8 **FOR THE WESTERN DISTRICT OF WASHINGTON**

9
10 **JOSE VALENCIA,**

11 Plaintiff

12 v.

13 **ASSET ACCEPTANCE, LLC**

14 Defendant.
15
16

NO.:

COMPLAINT AND DEMAND FOR JURY TRIAL

(Unlawful Debt Collection Practices)

Demand does not exceed \$10,000

17 Plaintiff, JOSE VALENCIA, on behalf of himself (hereinafter "Plaintiff"), by and through his
18 undersigned attorney, alleges against the defendant, ASSET ACCEPTANCE, LLC (hereinafter
19 "Defendant"), as follows:

20 **PRELIMINARY STATEMENT**

21 1. This is an action for damages arising from Defendants' violation of 15 U.S.C. § 1692 *et seq.*,
22 the Fair Debt Collections Practices Act (hereinafter "FDCPA") which prohibits debt collectors from
23 engaging in abusive, deceptive and unfair practices, and from Revised Code of Washington
24 §19.16.250 and 19.86.020, Washington statutes prohibiting particular actions by debt collectors and
25 unfair trade practices.
26
27

COMPLAINT

THOMAS MCAVITY
2225 NE ALBERTA, STE A
PORTLAND OR 97211
Tel: 206-674-4559
Facsimile: 866.241.4176

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, 1337, 1367 and 15 U.S.C. § 1692k(d).

3. Venue is proper in this district under 28 U.S.C. § 1391(b).

PARTIES

4. Plaintiff is a natural person who at all relevant times has resided in the County of King, City of Kent, State of Washington, and is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3).

5. Plaintiff has no formal legal training and is not a particularly sophisticated consumer.

6. Defendant is a company that is doing business in the State of Washington, with its corporate office mailing address located at 28405 Van Dyke, Warren, Michigan, and has acted as a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6) and as a “collection agency” under RCW 19.16.100(4) *et seq.*

7. The alleged debt is subject to personal, family or household purposes and is a “debt” as defined by 15 U.S.C. § 1692a(5) and as a “claim” under RCW 19.16.100(2).

FACTUAL ALLEGATIONS

8. On or about June 3, 2009, Plaintiff offered to settle an alleged account with the collection agency Mann Bracken LLP for the sum of \$607.90. This offer was accepted by a letter from Mann Bracken. **SEE ATTACHED EXHIBIT A.**

9. A check was tendered to Mann Bracken LLP on behalf of Plaintiff, and that check was deposited by Mann Bracken LLP on June 23, 2009, in accordance with the settlement agreement indicated in the preceding paragraph. **SEE ATTACHED EXHIBIT B.**

10. On or about May 3, 2013, Defendant’s agent, on Defendant’s behalf attempted to contact Plaintiff in an effort to collect a debt with a letter - **SEE ATTACHED EXHIBIT C.**

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COUNT I
VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. § 1692e(2)(A)

11. Plaintiff repeats the allegations contained in paragraphs 1 through 10 and incorporates them as if the same were set forth at length herein.

12. Defendant sent Plaintiff the letter dated May 3, 2013 alleging the debt was valid, even though Plaintiff had settled the debt with a former owner of it, Mann Bracken, LLP.

13. Defendant misidentified the legal status of the debt in violation of 15 U.S.C. § 1692e(2)(A).

COUNT II
VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. § 1692e(10)

14. Plaintiff repeats the allegations contained in paragraphs 1 through 13 and incorporates them as if the same were set forth at length herein.

15. The letter dated May 3, 2013 contained false statements that Defendant's records were not inaccurate, despite the provision to Defendant by Plaintiff of records indicating that the debt was settled with the June 2009 payment to Mann Bracken LLP.

16. Defendant falsely indicated that its records were accurate and that the debt was valid, in violation of 15 U.S.C. § 1692e(10).

COUNT III
VIOLATION OF THE FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. § 1692g(b)

17. Plaintiff repeats the allegations contained in paragraphs 1 through 16 and incorporates them as if the same were set forth at length herein.

18. Plaintiff requested validation of the debt and disputed the debt within the time frame required by statute.

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1 19. Defendant continued collection activity on the debt in its response dated June 3, 2013, despite
2 not being able to verify the debt. See Plaintiff's Exhibit C.

3 20. Defendant's agents continued to attempt to collect a debt from Plaintiff after failing to
4 validate the debt, in violation of 15 U.S.C. § 1692g(b).
5

6 **COUNT IV**

7 **VIOLATION OF RCW 19.16.250(16)**

8 21. Plaintiff repeats the allegations contained in paragraphs 1 through 20 and incorporates them
9 as if the same were set forth at length herein.

10 22. Defendant sent Plaintiff the letter dated May 3, 2013 alleging the debt was valid, even though
11 Plaintiff had settled the debt with a former owner of it, Mann Bracken, LLP.

12 23. As the debt was settled, Defendant was not legally entitled to pursue continued collection
13 efforts against Plaintiff.
14

15 24. Defendant's attempt to take action it was not entitled to do (collect a settled debt) is in
16 violation of RCW 19.16.250(16).
17

18 **COUNT V**

19 **VIOLATION OF RCW 18.96.020 (Unfair Trade Practice)**

20 25. Plaintiff repeats the allegations contained in paragraphs 1 through 24 and incorporates them
21 as if the same were set forth at length herein.

22 26. RCW 19.16.440 indicates that violations of RCW 19.16.250 are *per se* violations of RCW
23 18.96.020 (unfair trade practices).
24

25 27. As the debt was settled, Defendant was not legally entitled to pursue continued collection
26 efforts against Plaintiff.
27

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28. Defendant's attempt to collect a settled and extinguished debt is an unfair trade practice in violation of RCW 18.96.020.

JURY TRIAL DEMAND

Plaintiff demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that relief be granted as follows:

- a) That an order be entered declaring the Defendants' actions, as described above, are in violation of the FDCPA and Washington law;
- b) That judgment be entered against the Defendants for actual damages, pursuant to 15 U.S.C. § 1692k(a)(1) and RCW 19.86.090.
- c) That judgment be entered against the Defendants for statutory damages, pursuant to 15 U.S.C. § 1692k(a)(2)(A) and (B) and RCW 19.86.090;
- d) That the Court award costs and reasonable attorneys' fees, pursuant to 15 U.S.C. § 1692k(a)(3); RCW 19.86.090;
- e) That the Court grants such other and further relief as may be just and proper.

By: /s/ Thomas McAvity
Thomas McAvity, WSBA# 35197
Northwest Debt Relief Law Firm
2225 NE Alberta Suite A
Portland, OR 97211
206-674-4559

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REGIONAL OFFICES
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LAW OFFICES
MANN BRACKEN LLP
Attorneys in the Practice of Debt Collection
(A National Collection Attorney Network Firm)
9930 KINCEY AVE, FLR 3
HUNTERSVILLE, NC 28078

THE SUCCESSOR BY MERGER TO WOLPOFF & ABRAMSON LLP AND ESKANOS & ADLER P C

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VIRGINIA BEACH, VA

PLEASE DIRECT CORRESPONDENCE TO TEMPE OFFICE

JOSE VALENCIA
C/O THE PALMER FIRM
PO BOX 1700
RANCHO CUCAMONGO, CA 91729

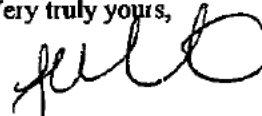
Re: Client Name	GE MONOGRAM	Account number: [REDACTED] 0161
Our file number:	185899781	Balance: \$1980.46

Dear Jose Valencia,

Upon receipt of \$607.60 in this office on or before June 25, 2009, you will be released from further obligation in the above-referenced matter.

This is an attempt by a debt collector to collect a debt and any information obtained will be used for that purpose.

Very truly yours,


MANN BRACKEN LL

Date: 06/04/2009

Client: Jose Valencia

Account Number: [REDACTED] 0161

QUESTIONS? Please call the Creditor Services Department at (909) 982-5333

The Palmer Firm, P.C.
900 N. Zang Blvd.
Dallas, TX 75208
Client: Jose Valencia
Account Number: 6019180234250161

60998

Date 06/04/2009

Pay To The Order Of: Mann Bracken LLP

****607.60**

SIX-HUNDRED-SEVEN AND 60/100*****

Colonial Bank
6021 PRESTON RD
FRISCO, TX 75034

SIGNATURE NOT REQUIRED

This check is tendered in accordance with the attached Settlement Agreement dated ____/____/____. If you cash this check you agree that the above account is settled for the agreed amount.

The maker has authorized this draft to Payee. Payee and Maker to hold you harmless for payment of this authorized draft. This draft shall be deposited only to credit of payee. The absence of an endorsement is guaranteed.

[REDACTED]

Asset Acceptance, LLC

Toll Free (877) 234-3936 Ext. 8642

28405 Van Dyke
Warren, MI 48093

May 3, 2013

Re: GEMB/CAR TOYS

Original Creditor Acct #: XXXXXXXXXXXX0161

Creditor to Whom The Debt is Owed: Asset Acceptance, LLC

Asset Acceptance, LLC Acct #: 11-3197729

Current Balance: \$1517.93

Dear Jose Valencia:

Thank you for your request for further information regarding the above referenced account. We purchased this account on Sep 29 2011 5:53pm. The previous creditor informed us that the account was associated with Jose Valencia, with a Social Security Number ending in [REDACTED]

We understand that you are disputing the accuracy of our records concerning the above referenced account. After reviewing the information you provided, as well as our account notes, and information provided by the previous creditor, we are unable to determine the nature of your dispute, and consequently deny that our records are inaccurate.

If you still believe the account information is inaccurate, please provide an explanation of why you believe it is inaccurate along with any documentation you have supporting this explanation. Upon receipt of this new information we will be happy to reinvestigate our records.

The Current Balance may vary due to payments and/or the accrual of interest.

This is an attempt to collect a debt and any information obtained will be used for that purpose.

Sincerely,

K. R. Richards

Toll Free (877) 234-3936 Ext 8642

Compliance Department

A debt collector and representative of Asset Acceptance, LLC

Federal law prohibits certain methods of debt collection, and requires that we treat you fairly. You can stop us from contacting you by writing a letter to us that tells us to stop the contact or that you refuse to pay the debt. Sending such a letter does not make the debt go away if you owe it. Once we receive your letter, we may not contact you again, except to let you know that there won't be any more contact or that we intend to take a specific action.

If you have a complaint about the way we are collecting this debt, please write to us at P.O. Box 1658, Warren, MI 48090-1658, email us at consumercomplaints@assetacceptance.com, or call us toll-free at (877) 208-5809 between 9:00 am and 5:00 pm Eastern Standard Time, Monday - Friday.

The Federal Trade Commission enforces the Fair Debt Collection Practices Act (FDCPA). If you have a complaint about the way we are collecting your debt, please contact the FTC online at www.ftc.gov, by phone at 1-877-FTC-HELP; or by mail at 600 Pennsylvania Ave., N.W., Washington, D.C. 20580.

Detach Lower Portion and Return with Payment

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Asset Acceptance, LLC Acct #: 11-3197729
Current Balance: \$1517.93

05/03/14 09:53:36 AM